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January 8, 2016

VIA ECF FILING ONLY

The Honorable Charles R. Breyer
United States District Court Judge
UNITED STATES DISTRICT COURT
Northern District of California, Courtroom 6 – 17th Floor
450 Golden Gate Avenue
San Francisco, California 94102

RE: In re: Volkswagen "Clean Diesel" Marketing, etc. Litigation: 15-MD-2672 CRB (JSC)

Application for Appointment to Plaintiffs' Steering Committee

Dear Judge Breyer:

Please accept this correspondence as Stuart M Eppsteiner's application for a position on the Plaintiffs' Steering Committee in the above-referenced litigation. This application is made in response to the Court's Pretrial Order No. 2.

I am counsel for Plaintiffs in the following Volkswagen ("VW") diesel engine litigation ("VW diesel actions"): (*Danna Hendricks v. Volkswagen Group of America, Inc.*, originally EDCA Case No. 5:15-cv-01948-SVW-DTB, now consolidated with NDCA Case No. 15-MD-2672-CRB). *Knisley et al. v. Volkswagen Group of North America, Inc.* filed in the Western District of Tennessee, Case no. 2:15-cv-2670 and *Brownlow v. Volkswagen Group of America, Inc.* filed in the Eastern District of Michigan, Case. No. 2:15-cv-13963-BAF-DRG.

1. Experience in this type of litigation:

I have represented plaintiffs in class action litigation since 1998. Those cases have involved products, insurance and service provision claims premised on consumer protection/fraud theories. I have been lead or sole class-counsel in eight cases during this time period. While litigating class actions I also litigated real estate, construction and fraud claims.

I was recently lead counsel in the consolidated Bosch frontload washer litigation (*Tait, et al. v. BSH Home Appliances Corporation*, Case No. SACV10-711 DOC (ANx), which was certified, and settled shortly before trial began. I am presently co-lead counsel for the Farmers Short Rate litigation class (*Streit, et al. v. Farmers Group, Inc., et al.*, Case No. BC434852, and was co-counsel in the Electrolux Ice Maker litigation (*Bovero v. Electrolux Home Products*, Consolidated NJDC Case No. 1:13-cv-02063NHL-AMD).

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I have considerable experience in review, consideration, organization and assimilation of very large collections of data of different types: e.g., engineering, sales, marketing, complaints, service and repair, and pricing. I am also very experienced in conducting discovery tailored to uncovering the information needed to prove liability and establish classwide damages. I have taken many key witness and expert depositions in cases of all kinds that include the depositions of engineers, marketing, sales, warranty, government compliance, as well as lay and expert witnesses on the topic of consumer perceptions and expectations.

Recently, a critical focus of certification in consumer false-advertising class action has turned to classwide damage models, challenges to those models, and demonstration that plaintiffs' damages models are plausible, convincing and admissible. I have expertise in this area and would apply it to advance the claims of VW diesel engine vehicle owners.

2. This is my first MDL litigation, however, I have considerable experience coordinating the work of several firms as co-plaintiffs counsel in class actions and as lead counsel or co-lead counsel in several such cases. I have been effective in organizing and managing labor of multiple co-counsel to initiate discovery, review, organize and assimilate information, depose lay and expert witnesses, make and oppose motions and prepare for trial. I have recently worked effectively with Lieff, Cabraser, Heimann and Bernstein, LLP, and Levin, Fishbein, Sedran and Berman, the Kralowec Law Group and Nagel Rice as either lead, co-lead or co-counsel representing consumers in class actions. Each firm represents Plaintiffs in the VW Diesel Litigation and each seek either lead counsel or Steering Committee positions. All of the firms referenced in the preceding sentence as well as Timothy Blood and his firm, Blood Hurst & O'Reardon LLP support my application for appointment to the Steering Committee.

Names and Contact Information of Judges in the Matters I Have Referenced Herein:

I was Lead Counsel in the consolidated Bosch frontload washer cases. The case involved petitions to the 9th Circuit and SCOTUS seeking review of the Court's certification order. Damage models and computations were important issues in the case. *Tait v. BSH Home Appliances Corp.*, 10-cv-00711 DOC-ANx. This case was presided over by Judge David O. Carter of the CDCA. (CDCA, Santa Ana – 411 W. 4th St., Santa Ana, CA – Tel: (714) 338.4543).

I am co-lead counsel in the Farmers' Short Rate Litigation. The case involves the alleged underpayment of insurance premium refunds for approximately 400,000 California policyholders. The matter is certified and summary judgment, as to liability, was granted. The case has dealt, in part, with computing damages for each of the hundreds of thousands of class members. The matter is pending before Judge John Shephard Wiley in the Los Angeles Superior Court. (*Streit, et. al. v. Farmers Group, Inc., et. al.*, Case No. BC434852). (Central Civil West, Dept. 311 – 600 S. Commonwealth Ave., Los Angeles, CA – Tel: (213) 351-7511).

I was lead counsel in the Kaz Heating Pad Litigation, involving false representations regarding the performance of Kaz heating pads and their propensity to burn users. This case was class certified. It dealt, in part, with valuing the heating pads in their falsely represented state vs. actual performance state. The matter was before Judge Marilyn Huff, in the CASD. (Beck-Ellman v.

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KAZ, Inc., Case No. 10-cv-2134-H (DHB) (CASD Courtroom 15A, 333 W. Broadway, Suite 1510, San Diego, CA 92101 – Tel: (619) 557-6016.))

I have also been lead or class counsel in the following cases, all of which dealt with false or deceptive advertising and defective products.

Champagne Windows (99-CV 1811-5) - Judge Frank Dubofsky (Retired) JAMS Denver, 410 17th Street, Ste. 2440, Denver, CO 80202 – Tel: 303.534.1254;

International Windows (FCS 021196)-Judge Paul Beeman, Solano County Superior Court, Dept. 1, 580 W. Texas St., Fairfield, CA - Tel: 707.207.7301.

Viking Windows (CV025771) - Judge Carter P. Holly, San Joaquin Superior Court, 222 E. Weber Ave., Rm. 303, Stockton, California 95202 – Tel: 209.992.5693

Atmos Windows (CV019362) - Judge Carter P. Holly, San Joaquin Superior Court, 222 E. Weber Ave., Rm. 303, Stockton, California 95202 – Tel: 209.992.5693

Newton v. Fortis (04-cv-1650-PSF)-Judge Phillip S. Figa -USDC Colorado (Deceased)

3, 4, 5, 6 & 7. Willingness and Ability to Commit to the VW Diesel Litigation; Work Cooperatively as a Member of the Steering Committee; Resources to Prosecute this Litigation; Willingness to Be a Plaintiffs' Steering Committee Member; and Categories of Plaintiffs I Seek to Represent

I have considerable experience in working with many co-plaintiffs' class counsel. Many are counsel to VW diesel vehicle owners and attorneys and law firms that are seeking appointment as lead counsel or the Plaintiffs' Steering Committee. The support I have from lawyers and firms with whom I have previously worked demonstrates their positive evaluation of my work and my ability to work successfully with co-counsel.

Although we are limited in number of attorneys, our experience and work quality are outstanding. My firm and I have the resources (financial, technologic and personnel) to be major contributors to the Plaintiffs' Steering Committee. My firm and I seek to represent both VW diesel vehicle owners and lessees.

8. Other Considerations That Qualify Me for Steering Committee Position

I have varied civil litigation experience. Over the last 15 years I have increasingly devoted my practice to representing injured consumers in class action litigation, and have reached the point where I now exclusively represent consumers in class action cases. I hope this Court will allow me to serve the American VW diesel vehicle lessees and owners as a member of the Plaintiffs' Steering Committee.

Respectfully Submitted,
Eppsteiner Law, APC

Stuart M. Eppsteiner

Stuart M. Eppsteiner, Esq.

Enclosure: Resume

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STUART M. EPPSTEINER

Professional Experience:

Product Liability attorney since 1981
Class Action Consumer Attorney since 1999.

Mr. Eppsteiner has been a partner or shareholder in his own firm since 1987. He initially represented corporations, defendants and insurance companies, but transitioned his practice to represent real estate developers, realtors and insurance companies, the latter as parties, by 1995. Since 1999 his practice has segued into representing exclusively consumers in class action litigation.

Notable Professional Class Action Accomplishments:

Jimenez v. Cobb: (citation) Represented owners of mass produced homes. Through this case, the California Supreme Court extended strict liability to windows and manufacturers of components products that are incorporated into California homes. *Jimenez v. Superior Court* 29 Cal. 4th 473 (2002)

Braverman v. Champagne: Was class counsel and represented all Colorado homeowners with Champagne Imperial aluminum-clad wood windows. Recovered sufficient funds for all such homeowners to replace their Champagne Imperial windows. (Windows rotted and leaked.) Colorado District Court for Boulder County: Case No. 99-CV 1811-5.

International Window Corporation: Was class counsel and represented all California property owners with IWC aluminum windows, specific models, that the class alleged leaked. Class was certified and settlement reached that provided funds to all affected IWC window owners. (citation) California Superior Court for Solano County: Case No. FCS 021196.

Viking Industries, Inc.: Was class counsel and represented all California owners of Viking Series 3000 aluminum windows. Class was certified. Settlement provided money to all California Viking Series 3000 aluminum window owners. California Superior Court for San Joaquin County: Case No. CV025771.

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Atmos Corporation (Merzon Windows): Was class counsel for all California owners of Merzon branded particular series of aluminum windows sold throughout central and northern CA. Settlement made funds available to all window owners. Case alleged the subject Merzon aluminum windows leaked in their lower corners. California Superior Court for San Joaquin County: Case No. CV019362.

Kaz Corporation: Was class counsel in certified class action regarding Kaz, SoftHeat and Dunlap branded heating pads. Claimed false and misleading packaging and dangerous performance causing users to be burned. Settlement made reimbursement of purchase price available to California purchasers with remainder to Cy Pres recipients. United States District Court for Southern California Case No. 3:10-cv-02134-H-DHB.

Bosch FLWs: Was lead counsel in certified class action regarding Bosch and Siemens branded front load washers. Claims certified were premised on false and deceptive advertising. Bosch sought review of certification order by Ninth Circuit Court of Appeal and SCOTUS. All petitions denied. Judge David O Carter of CACD approved settlement and attorney fees, costs and service awards. United States District Court for Central District of California: Case No. 8:10-cv-00711-DOC-AN.

Farmers Short Rate Litigation: Am presently co-class counsel in case. Judgment re liability entered that finds Farmers entities underpaid refunds to policyholders who cancelled policies mid-term. Motion for Summary Adjudication pending re damages for approximately 400,000 class members. California Superior Court for Los Angeles: Case No. BC434852.

Professional Memberships:

California Bar Association: Since 1981

Colorado Bar Association: Since 1999

Federal Bar Memberships: CACD, CAND, CASD, CO, pro hac in NJ & FL

Professional Recognitions:

Martindale Hubbell: AV

Super Lawyers: Class Actions & Construction.

SD Magazine: Top Lawyers in San Diego

Several Requested Professional Presentations